

REMARKS

This is a full and timely response to the non-final Office Action mailed by the U.S. Patent and Trademark Office on January 24, 2007.

Claims 1-6, 9-15 and 17 are pending in the present application. Claim 1 is amended with the subject matter of allowable claim 8 and intervening claim 7. Claim 9 is amended with the subject matter of allowable claim 16. Claims 7, 8 and 16 are canceled. Claim 17 is amended to provide proper dependency.

In view of the foregoing amendment and following remarks, reconsideration and allowance of the present application and claims are respectfully requested.

Rejections Under 35 U.S.C. § 102

Claims 1-2, 5-7 and 14

Claims 1, 2, 5-7, 9 and 14 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,564,347 to Mates (hereafter *Mates*).

A proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See, e.g., In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). The test is the same for a process. Anticipation requires identity of the claimed process and a process of the prior art. The claimed process, including each step thereof, must have been described or embodied, either expressly or inherently, in a single reference. *See, e.g., Glaverbel S.A. v. Northlake Mkt'g & Supp., Inc.*, 45 F.3d 1550, 33 USPQ2d 1496 (Fed. Cir. 1995). Those elements must either be inherent or disclosed expressly. *See, e.g., Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 7 USPQ2d 1057 (Fed. Cir. 1988); *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987). Those elements must also be arranged as in the claim. *See, e.g., Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989); *Carella v. Starlight Archery & Pro Line Co.*, 804 F.2d 135, 231 USPQ 644 (Fed. Cir. 1986). For anticipation, there must be no difference between the claimed invention and the reference

disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

Accordingly, the single prior art reference must properly disclose, teach or suggest each element of the claimed invention.

Applicants have amended independent claim 1 with the subject matter of allowable claim 8 and intervening claim 7, and have amended independent claim 9 with the subject matter of allowable claim 16.

Accordingly, Applicants respectfully submit that independent claims 1 and 9 are allowable. Further, Applicants respectfully submit that dependent claims 2 and 5-7 are allowable for at least the reason that they depend either directly or indirectly from allowable independent claim 1; and that claim 14 is allowable for at least the reason that it depends directly from allowable independent claim 9. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988) (Citations omitted).

Claim 9

Claim 9 stands rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,732,209 to Vigil *et al.* (hereafter *Vigil et al.*).

Applicants have amended independent claim 9 with the subject matter of allowable claim 16. Accordingly, Applicants respectfully submit that independent claim 9 is allowable.

Allowable Subject Matter

Claims 3-4, 8, 10-13 and 15-17 are objected to as being dependent on a rejected base claim, but would otherwise be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants thank the Examiner for the indicated allowability of claims 3-4, 8, 10-13 and 15-17. Applicants have amended independent claim 1 with the subject matter of allowable claim 8 and intervening claim 7; and have amended independent claim 9 with the subject matter of allowable claim 16.

CONCLUSION

Should the Examiner have any comments regarding the Applicant's response or believe that a teleconference would expedite prosecution of the pending claims, Applicant requests that the Examiner telephone Applicant's undersigned attorney.

Respectfully submitted,

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